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Kristin Ballenger

The Grave Disparities in Modern Education, Segregation, and School Budgeting: A Comparison
Between *Brown v. Board of Education* and *San Antonio Independent School District v.*

Rodriguez

University of Tennessee, Knoxville

Executive Summary

A rift in the education system has been growing for countless years. Despite apparent victories from court case decisions, educational disparities have created an education system destined for failure. In New York City alone, numerous school districts follow the same pattern for several of their high schools: “an elite specialized school that is located in an inner-city neighborhood but comprised of students that represent less than 1% of children from the neighborhood” (Ebanks, Toldson, Richards, & Lemmons, 2012, p. 245-46). High schools located within a minority community are comprised of affluent students from outside that community. The logic behind such a decision is baffling, and the segregation created because of such enrollment furthers the divide between low-income students and their affluent peers. From a ruling in *Brown v. Board of Education* that separate but equal was in fact unequal, to later court rulings ending desegregation efforts, the back and forth is relentless and leaves schools as segregated as they were before the *Brown* ruling.

Not only are schools divided by race, but as *San Antonio Independent School District v. Rodriguez* revealed in Texas, schools are furthered separated by the amounts of funding students receive. The use of local property taxes, or at other times private money, hinders low-income communities and provides more to already affluent students. Yet even with such stark evidence of inequity, education remains on a tight leash, and the children of these schools often stumble and fall in the process with limited resources. This paper will examine the ruling and outcome of two key cases in education: *San Antonio Independent School District v. Rodriguez* and *Brown v. Board of Education*, asking if their effects have any profound impact on the school system today and on the current problems in education. What Justice Thurgood Marshall claimed forty years ago resonates beautifully today:

It is an inescapable fact that if one district has more funds available per pupil than another district, the former will have greater choice in educational planning than will the latter. In this regard, I believe the question of discrimination in educational quality must be deemed to be an objective one that looks to what the State provides its children, not to what the children are able to do with what they receive. That a child forced to attend an underfunded school with poorer physical facilities, less experienced teachers, larger classes, and a narrower range of courses than a school with substantially more funds—and thus with greater choice in educational planning—may nevertheless excel is to the credit of the child (*San Antonio Independent School District v. Rodriguez*, 1973).

Students in today's modern world are dealt a great injustice from none other than the school system that is supposedly present to prepare them for the global world.

I. The Current State of Public Education

The amount of education legislation decided by the Supreme Court and Congress is ever growing, yet the loopholes and gaps created by initiatives such as No Child Left Behind, the Elementary and Secondary Act of 1965, and Race to the Top have only worsened. Unfortunately despite attempts to equalize, better, and increase academic quality, a number of schools are now failing. Twenty years ago, education for a student living in East St. Louis was practically non-existent due to stark segregation between schools and districts. Today, the quality of a student's education in New York City can differ vastly simply dependent on where he or she lives within the city and the tax bracket of his or her parents. For example, "most of the 32 New York City community school districts have predominantly black and Latino student populations" (Roda & Wells, 2013, p. 270), while the majority of white, Caucasian students attend specialized high schools and private schools. The ability of white, affluent parents to move or pay for private

schooling, along with the legality of de facto segregation, places the low-income minority student at great risk.

For critics, education over the past twenty years has been nothing short of an incredible disappointment. The number of novice teachers at low-income schools is great, and the system has achieved little more than adequate educations from school buildings filled with health hazards and minimal resources. What further complicates the system are parents. Many white upper-middle-class parents in New York City alone have stated disappointment in the segregation of their schools, yet they are more concerned with their child's ability to achieve within a system of increasingly high standards (Roda & Wells, 2013, p. 264). So what then drives school segregation, both in terms of funding and race? If parents see the problems, yet send their students to private schooling for the highest-quality education, it seems their child's achievement takes priority to segregation concerns and inequity. This creates a complex system where segregation is present when parents and students feel they have no other choice.

So why has there been such an inequity among schools in regards to race and funding, and does it still exist today? Why should a free, public education cost some students their dreams while fulfilling other students of theirs? While some question the impact money truly has on a school, it is clearly absurd to believe two schools thousands of dollars apart in per-pupil spending would result in two students equally prepared for college. A student attending a school with a per-pupil spending of \$6,836 will have much more difficulty achieving at the same level as a student receiving almost \$2,000 more at \$8,479, which is the case between some school districts in Tennessee. While a few students may defeat the norm and achieve at high standards despite a lower expenditure, the majority of students will struggle with the clear lack of resources. Money drives the education system, and the problems surrounding it are only

growing, thus widening the gap among schools and their corresponding funding levels.

Knowing the history of the American school system, it is time to look forward and understand schools in today's system and determine the changes, if any, in the past sixty years.

II. Brown v. Board of Education

A. The Supreme Court Justices

While the Brown case eventually made its way to the Supreme Court, it began in Topeka, Kansas, with thirteen Topeka parents. These parents “sued on their own behalf and as representatives of their twenty children, who were also appearing as plaintiffs. All were black. All of the children were public school students who had been denied access to their neighborhood schools on account of their color” (Wilson, 1995, p. 21). The court case lists the plaintiffs in this order: “The first-named plaintiff is Oliver Brown, appearing for his daughter, Linda Carol Brown. Brown’s name is followed by those of Mrs. Richard Lawton, Mrs. Sadie Emmanuel, and ten other parents” (Wilson, 1995, p. 21). Against these plaintiffs were the defendants: “the Topeka Board of Education, Superintendent McFarland, and Sumner Principal Wilson” (Wilson, 1995, p. 72). Preparing for court, these sides brought their evidence and lawyers to the Kansas district court where three judges would hear their segregation claims. The judges were as follows: Chief Judge Arthur J. Mellott, a Kansas City resident, Judge Delmas C. Hill, a resident of Wichita, and Judge Walter A. Huxman, a Topeka resident and a judge for the Tenth Circuit United States Court of Appeals (Wilson, 1995, p. 73). All three “were white, Protestant, and male. All were Democrats who had attained a considerable amount of professional and political experience” (Wilson, 1995, p. 73), and all were now responsible for deciding the first ruling for the Kansas school system.

Though this three-judge district court reached a decision upholding *Plessy v. Ferguson* and ruling separate but equal constitutional, the case was far from over as Mr. Brown made a direct appeal to the Supreme Court. Finally, at the end of 1952, the Supreme Court heard this landmark case. Nine judges listened intently and observed all evidence, yet these original nine judges were not all present when the final decision was read. The beginning nine seated from left to right were: Associate Justices Tom C. Clark of Texas, Robert H. Jackson of New York, Felix Frankfurter of Massachusetts, Hugo L. Black of Alabama, Stanley F. Reed of Kentucky, William O. Douglas of Connecticut, Harold H. Burton of Ohio, Sherman H. Minton of Indiana, and Chief Justice Frederick M. Vinson of Kentucky (Wilson, 1995, p. 136-38). From the original nine, it was clear there were differences in opinion and political views, as is the case with any court. After investigation, Richard Kluger concluded that,

the justices were seriously divided on the issue raised in *Brown*. Four justices-Black, Burton, Douglas, and Minton-were ready to overrule *Plessy v. Ferguson* and reverse the judgment of the district court. One justice, Reed, would have affirmed the district court, and two more, Vinson and Clark, seemed likely to vote for affirmance. Frankfurter and Jackson were apparently troubled. Had the cases been without precedent, both would have found segregation unconstitutional (Wilson, 1995, p. 159).

Despite this belief that the court would have overturned *Plessy v. Ferguson* with a majority vote, “Frankfurter, apparently the intellectual leader of the Court, felt it imperative that the decision be unanimous. Nothing less than a consensus could settle an issue so volatile and so far reaching” (Wilson, 1995, p. 159-60). Unanimity is hard to achieve, and unfortunately, it was not in the foreseeable future for the *Brown* case, thus, it was time for a break. It was December of 1952.

B. The Claim

In 1954, the Supreme Court ruled unanimously in *Brown v. Board of Education* that de jure segregation was unconstitutional, requiring all schools to begin the process of desegregation. Claims that segregation of schools was negatively impacting the academic lives of students originated in four states-Kansas, South Carolina, Virginia, and Delaware-where Negro students sought to attend non-segregated public schools (*Brown v. Board of Education*, 1954). Each of these states had a school district within where students and parents were frustrated with the current school system and sought drastic change. Students from elementary to high school argued for an equality that had been absent for so long in their neighborhoods. Such arguments took each of these four cases to the District Courts, and the rulings there all mirrored similar thoughts.

One of the three-judge District Courts, the Kansas District Court, made a profound remark in its final statement when it admitted:

‘Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law; for policy of separating the races is usually interpreted as denoting the inferiority of the negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to (retard) the educational and mental development of Negro children and to deprive them of some of the benefits they would receive in a racial(ly) integrated school system’ (*Brown v. Board of Education*, 1954).

The unsettling fact is that Kansas District Court judges understood the true gravity of the situation and saw the detrimental influence of segregation, yet they denied Negro students admittance into white schools. The three judges believed “*Plessy v. Ferguson* required equality

only in the physical characteristics of buildings, equipment, the curricula, quality of instruction, and other tangible school services. Legal segregation in and of itself, without more, did not deny equal protection. *Plessy v. Ferguson* had not been overruled” (Wilson, 1995, p. 98). This decision was quite similar in the remaining states as well.

For example, while Virginia did not allow Negroes into white schools, the court did find “the Negro school inferior in physical plant, curricula, and transportation, and ordered the defendants forthwith to provide substantially equal curricula and transportation” (*Brown v. Board of Education*, 1954). Each state asked schools to provide equality in all things tangible, such as buildings and curriculum that had to this point been unequal, yet when it came to the intangibles of an education, the court required nothing. Intangibles such as an “ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession” (*Brown v. Board of Education*, 1954), were left apart from all District Court rulings, therefore maintaining separation between black and white schools.

C. The Outcome and its Implications

Taking the opinions of the District Courts into consideration, the Supreme Court began its study of the claims brought forth. Understanding that a ruling could not be based on only tangible facts, as the District Courts decided, the Supreme Court looked at the effects of segregation on students attending public schools and a student’s equal protection under the law (*Brown v. Board of Education*, 1954). What the Supreme Court investigated was whether segregation had a direct impact on students, especially Negro students forced to attend all black schools, and if such an impact was negative, what must be done to alleviate such a wrong.

Returning to the Supreme Court that chose to break at the end of 1952, the answers to segregation’s effect on education were still unclear, which created the pause for the Court lasting

from December 9, 1952, “until June 8, 1953” (Wilson, 1995, p. 160). On this day in June, the Kansas defendants received word from the Supreme Court that the Brown case would be heard once again for reargument beginning Monday, October 12 (Wilson, 1995, p. 160). In the few months leading up to October, Chief Justice Fred M. Vinson died. As “an appointee of President Truman, he had headed the Court since 1946,” and now his death “gave President Eisenhower the opportunity to make his first Supreme Court appointment” (Wilson, 1995, p. 171).

After a few weeks, President Eisenhower named Governor Earl Warren of California as the new Chief Justice, replacing Chief Justice Vinson. Though the appointment would not be confirmed by the time of the reargument of Brown, Chief Justice Warren was able to preside during the Court’s October 1953 term (Wilson, 1995, p. 171). As the new chief justice, Warren “was sixty-two years of age, a former California district attorney and attorney general, and had served as governor of that state for more than ten years” (Wilson, 1995, p. 171). This appointment caused hesitation among Kansas defendants. As an appointee of Eisenhower, the Warren record revealed no hints that he would rule in favor of upholding *Plessy v. Ferguson*’s separate but equal mandate; instead, it seemed as if Eisenhower chose a judge to fulfill his administration’s push to abolish all segregation (Wilson, 1995, p. 172). This Supreme Court headed by a new chief justice resulted in quite different decisions, and “thus, at 1:50pm on December 7, 1953, the justices settled in for eleven hours of eloquence” (Wilson, 1995, p. 183). This was the beginning of the end of Brown I.

Early in the case, the Court stated that “the opportunity of an education, where the state has undertaken to provide it, is a right which must be made available to all on equal terms” (Brown v. Board of Education, 1954). With the knowledge that a state provides education to its citizens, it then follows that all students, white or black, must receive that education offered, and

it must be in an equitable, tangible setting with a diverse group of students. This right implies that black and white students not only receive equality in tangible resources but also intangible ones, such as teacher quality and high stimulation from the learning environment. Knowing these differences, the Supreme Court, led by Chief Justice Earl Warren, came to its conclusion “at 12:52pm on May 17, 1954” (Wilson, 1995, p. 194), and said: “We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other ‘tangible’ factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does” (Brown v. Board of Education, 1954). Despite past beliefs held by the District Courts, the Supreme Court found segregation a violation of the Fourteenth Amendment, therefore suggesting that Negro students are not receiving an equal education.

1. Separate but Equal

Despite the 1954 ruling that separate but equal was in fact unequal, the process of ending de jure segregation brought new challenges. Unfortunately, “the decision of May 17, 1954, determined only that segregated public schools were unconstitutional. It provided no guidelines to be observed by officials responsible for bringing schools then segregated into compliance with the decision” (Wilson, 1995, p. 203). Such a concern caused questions to arise: Were schools actually meeting the requirements set forth by the Supreme Court, or had the ruling that separate but equal was unequal been too vague to create any real change? To put an end to the confusion, Brown II began in late 1954. Upon convening for its October 1954 term, the Supreme Court set these new cases to commence on December 6 of that year (Wilson, 1995, p. 210). This entered the third installment of the Brown case, which had now spanned three years.

In this case, whether segregation was constitutional or not was not a consideration; *Plessy v. Ferguson* had been overruled, and this would not be undone. Instead, the Supreme Court asked only if states had made an effort towards ending segregation in their schools (Wilson, 1995, p. 210). The point of this third trial was to prove states were abiding by the belief that separate but equal was no longer equal, and that desegregation was now underway. The question was, how much desegregation had in effect been accomplished?

2. Desegregation

Brown II ended quickly with a predictable ruling; the decision reaffirmed *Brown I*. It finalized the requirement for desegregation and ended any hope that segregation might be upheld at a later date (Wilson, 1995, 219). However, the Court still “failed to specify a remedy in *Brown II*, which was devoted entirely to this issue. The decision is famous for its oxymoronic phrase, ‘all deliberate speed,’ which the Court used to describe the pace at which states needed to desegregate their schools” (Dunn & West, 2009, p. 75-76). The problem with *Brown II* is that the ruling gave no clear direction moving forward. The pace of all deliberate speed was unknown, therefore, each state interpreted it in its own way. Furthermore, if the Court in fact sought integration above desegregation, the extent of integration necessary was left unspoken (Dunn & West, 2009, p. 76). The Supreme Court listed no benchmarks, leading to varying interpretations of the law.

Due to the vague descriptions of *Brown II*, “a decade after *Brown*, no more than 2 percent of black children in the South attended schools with whites” (Dunn & West, 2009, p. 77). The ruling of desegregation was practically irrelevant to school systems who clearly took ‘all deliberate speed’ to be nothing short of a joke. Then finally, “after thirteen years of silence, the Supreme Court announced in its 1968 decision in *Green v. New Kent County* that formerly

segregated school districts must actually integrate their schools,” yet this ruling “applied only to states and school districts that had previously intentionally segregated schools” (Dunn & West, 2009, p. 77). What this ruling did was begin the process of ending de jure segregation in the school system. This de jure segregation was the one present during *Brown v. Board of Education* because schools had been segregated by law due to “the intentional actions of government entities” (Green, 1999, p. 138). Unfortunately, this had no effect on other schools segregated through de facto segregation where it was unintentional.

Turning to schools sixty years after *Brown*, what is still intact today is no longer de jure segregation but this de facto segregation. De facto segregation is not mandated by law but occurs due to varying circumstances within a community such as mobilization, clustering, wealth, and “other factors such as private choices” (Green, 1999, p. 138). This in turn has led to the more recent resegregation of schools, as evident in cases such as *Green v. New Kent County*. Three years after this case, the Court’s decision in *Swann v. Charlotte-Mecklenburg* clearly implied that desegregation was simply a temporary remedy; it was by no means a permanent regulation (Dunn & West, 2009, p. 78). Again, the Court set forth unclear deadlines and boundaries, and today, “there is no doubt that court-ordered desegregation is in its twilight phase” (Dunn & West, 2009, p. 86), and resegregation is on the rise in the modern-day school system.

3. A Modern Example: New York City

Looking to New York City, the disparities in the classroom are evident, largely from the contribution of de facto segregation. Though countless cities across the U.S. remain segregated to some degree, the New York City public school system is one of the worst. Even with a diverse population of Hispanics, blacks, whites, and Asians, the schools represent little

diversity (Kleinfield, 2012). It has been found that “about 650 of the nearly 1,700 schools in the system have populations that are 70 percent a single race,” and “more than half the city’s schools are at least 90 percent black and Hispanic” (Kleinfield, 2012). This great separation has grown in New York City especially through public elite and specialized high schools. Today in New York, high schools have an open enrollment model to give parents greater choice in their child’s education, yet these ‘colorblind’ schools do not promote integration and require one entrance exam for acceptance. This Specialized High Schools Admissions Test (SHSAT) has created a great inequity and halts many minority students from ever gaining acceptance.

One main concern is the educational value of an exam school compared to a public school. Exam schools generally provide more rigorous coursework and class options, preparing students for the competitive college atmosphere. However, these schools are not well-attended by minority students. For example, the Bronx is mainly comprised of low SES families, yet the two specialized high schools in the Bronx are primarily populated by students living outside the Bronx in higher SES categories. Low-income, working class families do not have additional funds available for test preparation, leaving students unprepared (Ebanks, Toldson, Richards, & Lemmons, 2012, p. 243). The unfortunate fact is that “Black students account for 32% of New York City’s public school system, but represent only 1.2% of the population at one of the elite specialized high schools in Manhattan” (Ebanks, Toldson, Richards, & Lemmons, 2012, p. 243). Such stark inequity increases de facto segregation and has caused frustration among parents. The purpose of these specialized schools was to increase the quality of education for all students, yet these schools appear to do just the opposite, accepting students from high-income families and segregating the rest.

A further problem is within school segregation. New York City is also known for its Gifted and Talented (G&T) programs, and these are consistently filled with white, non-Hispanic students (Roda & Wells, 2013, p. 265). Even more diverse schools are segregated within the classroom, making visible to all students the disparities present between wealth, race, and academics. While the purpose of the G&T program was to enroll more affluent, white students in minority schools, its effect in one district has created further segregation as “almost all of the district’s white elementary school students were enrolled in only six of the 18 schools” (Roda & Wells, 2013, p. 271). Three of these six schools have G&T programs, meaning that the majority of white students attending those schools to create diversity are then re-segregated within the school itself (Roda & Wells, 2013, p. 273). To combat such de facto segregation, programs, such as Project 2011, have been designed to prepare low-income minority students for these high school entrance exams, yet as for now, the majority of specialized schools will continue to remain segregated. De facto segregation has no restrictions or limitations under the law.

Contributing further to the struggle of racial resegregation is the issue of funding. One report found that much of New York’s inequality “derives from allocations granted by state legislators to school districts where they have political allies. The poorest districts in the city get approximately 90 cents per pupil from these legislative grants, while the richest districts have been given \$14 for each pupil” (Kozol, 1991, p. 119). Such disparity sends a disturbing message to those students who only receive the 90 cents, often causing them to believe the idea that they “are viewed as having little value to America” (Kozol, 1991, p. 140). This leaves little wonder to the fact that students from minorities and low-income backgrounds, already turned away from specialized high schools, are found to fail at higher rates.

III. Rodriguez v. San Antonio Independent School District

Since the days of *Brown v. Board of Education* sixty years ago, “the very notion of education providing a civic benefit has been drowned out by an emphasis on its economic (sometimes social, but mainly individual) benefits” (Sracic, 2004, p. 215). The question of funding education has raised both ethical and legal concerns. On one end, citizens argue for the fairness of funding, hoping to shift away from the use of property tax revenue, and on the other side is a legal question of whether education is a fundamental right in the Constitution. At stake in *San Antonio Independent School District v. Rodriguez* “was not the denial of a government benefit on the basis of wealth, but the provision of a relatively worse public benefit on the basis of wealth” (Sutton, 2008, p. 1969), and by the end, the Court’s decision in *Rodriguez* was in exact opposition to that of *Brown*.

A. The Supreme Court Justices

The Supreme Court that vied for educational equality in *Brown v. Board of Education* was now a new Court, populated by the appointments of President Richard Nixon (Millhisier, 2005, p. 405). This created

some differences between the late Warren Court of 1968 and the early Burger Court of 1973. After four appointments by President Nixon—Chief Justice Burger for Chief Justice Warren, Justice Blackmun for Justice Fortas, Justice Powell for Justice Black and Justice Rehnquist for Justice Harlan—the Court had become a different forum in which to advance the argument that education was a fundamental right or that wealth was a suspect class. The five-member majority that ultimately rejected the plaintiffs’ claims in *Rodriguez*, as it turns out, consisted of the four Nixon appointees and Justice Stewart (Sutton, 2008, p. 1968).

In addition to these five, the other four justices under the Burger Court of 1973 were Justices Brennan, White, Douglas, and Marshall, who wrote the lead dissent. These five justices created a new agenda. While the Warren Court worked to fight against social injustices, such as in *Brown*, the Nixon-appointed justices were literalists, looking to the Constitution for guidance and viewing their role as limited (Millhiser, 2005, p. 406).

Looking at the individual justices on the Burger Court, links to *Brown v. Board of Education* were clearly evident. During *Brown*, Thurgood Marshall had argued before the Supreme Court as a lawyer, fighting for an equal education for all students. Now under the Burger Court, Marshall was a justice, faced with a new claim of segregation, this time by funding (Sracic, 2004, p. 216). For Marshall, this case was monumental and a clear deciding factor in the outcome of education for years to come. “As one of the winning lawyers in *Brown*, Justice Marshall surely appreciated the significance of the case, including the possibility that the promises of *Brown* would never be fulfilled unless the courts not only eliminated *de jure* segregation by race but also curbed the effects of *de facto* segregation by wealth” (Sutton, 2008, p. 1970). Regrettably, his firm opinions were in opposition to Justice Powell.

The *Brown* case consisted of four states, one of which was Virginia. In Virginia, the law firm representing the county included lawyer Lewis Powell, Jr. Yet though Powell was a prominent figure in the firm, he was not actually involved in the case (Sracic, 2004, p. 216). Even with this lack of involvement, Powell did serve as a school board member from 1952 to 1961 for the Richard School Board and the Virginia Board of Education (Sracic, 2004, p. 216). Serving during this time meant Powell became responsible for helping oversee the implementation of desegregation in the Virginia School District (Sutton, 2008, p. 1969). This background made Powell more knowledgeable than any other justice on the Court concerning

the functions of elementary and secondary schools (Sracic, 2004, p. 216). Despite Powell's connection to the schools, in the end, he would be the one to write the majority opinion, changing forever the state of education. Unfortunately, it appears that Powell's background knowledge of schools skewed his decisions and opinions in the Rodriguez case. From its start, "he saw it as a case about centralized control of the schools" and "a state takeover of education funding would, in Powell's mind, destroy that sacred institution" (Sracic, 2004, p. 216-17). For Powell, his only solution was to therefore determine that education was in fact not a fundamental right under the Constitution (Sracic, 2004, p. 217). Though Powell's background brought hope to those seeking change in schools, his leadership in turn led to a dismissal of education as a Constitutional right.

B. The Claim

In the summer of 1968, Demetrio Rodriguez filed a complaint with the San Antonio Independent School District, and in early 1973, the Supreme Court's ruling forever changed the education system in America. Jonathan Kozol (1991) describes that day and its impact on society: "March 21 of 1973: the day on which the high court overruled the judgment of a district court in Texas that had found the local funding scheme unconstitutional-and in this way halted in its tracks the drive to equalize the public education system through the federal courts" (p. 258). When Rodriguez first filed his complaint, he was concerned with the current funding mechanism at use in the San Antonio Independent School District. He witnessed two school districts receive two vastly different amounts of funding, asking what right the school districts and the state had to segregate students based on money.

Much of the problem stemmed from the argument of local property taxes and the fact that lower-income neighborhoods had lower property values, and therefore less funding for their

schools. This commonly used “system of local school funding challenged in Rodriguez is exactly the sort of ‘political process’ against which the Fourteenth Amendment is designed to offer protection” (Millhiser, 2005, p. 410). The purpose of the case was simple: Rodriguez argued for school children of poor families who were unfairly segregated by wealth due to their residence in low-income communities with lower property tax bases. The question asked was if Texas should rely on a funding system that varies due to simple housing value. (San Antonio Independent School District v. Rodriguez, 1973). The argument made was that such funding was unconstitutional, but the courts had quite different opinions.

C. The Outcome and its Implications

This case first went to the District Court, comprised of three judges. Hearing the claims brought by Rodriguez, the District Court concluded “that Texas’ dual system of public school financing violated the Equal Protection Clause,” holding that the district discriminated, and therefore segregated, its students based on wealth (San Antonio Independent School District v. Rodriguez, 1973). The Texas District Court believed such funding acts to be unconstitutional, and its ruling stood until it made its way to the Supreme Court where the tone quickly changed. The hope instilled by the District Court disappeared as the Burger Court proclaimed the decision, “Reversed.” How could the Supreme Court deny Texas students a quality education and the District Court their ruling? Amidst great confusion, the Supreme Court held that the school financing system, in “which each district supplemented state aid through ad valorem tax on property,” (San Antonio Independent School District v. Rodriguez, 1973) in Texas was in fact constitutional. The Court stated that this system provided every Texas student with a basic education and was therefore not in violation of the equal protection clause under the Fourteenth Amendment (San Antonio Independent School District v. Rodriguez, 1973). Such a ruling

provides two opposing views towards the funding scheme in San Antonio, Texas. While the District Court found serious problems with the process, the Supreme Court found confidence in the fact that all students were receiving the education the state had agreed to provide them.

To understand the point of view of the Supreme Court, it is important to ask what these nine justices were searching for in their proceedings. To the confusion of many, the Court was not searching for an answer to the local property tax discussion or to the proper funding mechanism for schools. Instead, the Court believed that “it is not the province of this Court to create substantive constitutional rights in the name of guaranteeing equal protection of the laws,” and “rather, the answer lies in assessing whether there is a right to education explicitly or implicitly guaranteed by the Constitution” (San Antonio Independent School District v. Rodriguez, 1973). So the question became focused on the basic rights of education and its foundation in the Constitution. The Court therefore began to review the Equal Protection Clause and the Minimum Foundation Program in Texas. The Court shifted its discussion from budgeting and instead asked whether Texas provided its students with the education it had originally promised it would. Texas repeatedly asserted that it had “fulfilled this desire and that it now assures ‘every child in every school district an adequate education’” (San Antonio Independent School District v. Rodriguez, 1973), and in the end, the Supreme Court agreed. While every student may very well have an adequate education, one must ask himself or herself if that is truly enough. Is it right to only ask that every student be given a merely adequate education?

1. Reversing a District Court Decision

What is so intriguing about the Rodriguez case is the fact that the Supreme Court reversed the District Court, and not simply that the ruling was reversed, but that a decision ruling

educational funding unconstitutional was reversed due to maintaining the laws set forth by the Constitution. In *Brown v. Board of Education*, the Supreme Court reached further than the District Court and ruled separate but equal unconstitutional. Where the District Court had failed to see the constitutional discrepancies of segregation, the Supreme Court, under Chief Justice Warren, unanimously aimed to change education. Nineteen years later, a new court is in place with a completely different philosophy. The Burger Court of 1973 reviewed the evidence presented by Texas and agreed with the state, claiming their funding mechanism met all constitutional requirements. This agreement reversed the ruling of unconstitutionality by a District Court. While the Warren Court went a step further in *Brown*, the Burger Court caused a complete reversal of not only a ruling, but also of the education system in general. Allowing such a funding mechanism began the widening of an ever-increasing funding gap among schools.

2. Is Education a Right in the Constitution?

Questions asking whether there was a federal, constitutional right to education became the center of the *Rodriguez* case. Education in America is compulsory for grades kindergarten through twelfth, so the thought of its absence from the Constitution is almost unthinkable. Furthermore, in forty-eight out of the fifty “states the provision of public education is mandated by the state constitution” (*San Antonio Independent School District v. Rodriguez*, 1973). Why would a provision explicitly written in almost every state constitution not be present in the national Constitution? The discord present is quite confusing.

Reviewing the history of the education system, it is important to look back to its beginning roots. Going as far back as the founding of America, state constitutions made a commitment to the value of education. In fact, of the original thirteen states, six explicitly wrote education clauses into their state constitutions (Friedman & Solow, 2013, p. 116). Even as early

as the late 1700s, the founders acknowledged the great importance of education and committed to preserve it for all future generations. Then, during the mid to late 1800s, states took this commitment a step further by requiring legislatures to maintain schools through financial support and other means. Public schools would now be free for all students (Friedman & Solow, 2013, p. 125). Finally, by 1918, every state of the union had deemed education necessary and compulsory (Friedman & Solow, 2013, p. 127). Progress over this time proved education was a great asset to society and each state and a valuable right that must be accessible to all. Now moving to education today, “every state constitution contains a provision on education. In addition, some thirty-one state courts, most of them high courts, have held that the state constitutional provision has substantive content: it guarantees a right to a minimally adequate education” (Friedman & Solow, 2013, p. 129). So while on the federal level education is still not viewed as a constitutional right, on the state level, education is seen as a right for all its citizens.

Turning to the Constitution itself, it is important to determine if the Constitution does in fact imply some right to education. According to Friedman and Solow (2013), there is a constitutional right to education grounded in the Due Process Clauses of both the Fifth and Fourteenth Amendments (p. 110). Furthermore, “when it comes to rights under the Due Process Clause, what matters are the actual practices in the states and the federal government, those that constitute our national history and tradition” (Friedman & Solow, 2013, p. 121). The point made is that those practices that are carried out in state governments consistently for hundreds of years are definite rights under Due Process. Due to the fact that education is provided in all states in the U.S. and that most have deemed it a constitutional right at the state level, it follows that it would and should be a right at the federal level.

If the U.S. is comprised of states, all of whom provide, fund, and monitor their education systems, why would the federal government not recognize education as a right and therefore equalize funding across schools? Moreover, how can education, which is becoming increasingly legislated at the federal level, not be considered a constitutional right? While arguments will continue in regards to what the Constitution may explicitly say, it is obvious that “for well over a century and a half, there has been a consensus that education matters. Interpreting the Constitution in the way judges ordinarily do, there is a federal right to a minimally adequate education” (Friedman & Solow, 2013, p. 156). This federal right to education should then result in an equal and quality education for all students. In addition to these legal objectives of education are the social objectives, such as building human capital and redistributing equity. Though they are not necessarily stated in the Constitution, these objectives help to build the foundation for the current education system and further reveal the importance of and the right to education.

3. The Impact of Local Property Taxes

In addition to Texas’ aim for an adequate education, the San Antonio Independent School District funding scheme revealed problematic factors of relying too heavily on local property tax revenue. One issue is in the area of teacher salaries. In Texas, as in any other state, teachers with a higher degree and more experience on average earn a higher salary. This becomes a problem when the majority of experienced teachers are located at the best, most affluent schools in the district. Therefore, an affluent area, such as Alamo Heights in San Antonio, receives more support from the state than other nearby schools with less-experienced teachers (San Antonio Independent School District v. Rodriguez, 1973). This implies that not

only are lower-income schools receiving less funding, but they are also depending on a higher number of novice teachers, often leading to a lower quality education.

Moving past teacher salary disparities, the discussion concerning property taxes only heightens. To fund local schools and “to fulfill its Local Fund Assignment, every district must impose an ad valorem tax on property located within its borders” (San Antonio Independent School District v. Rodriguez, 1973). Since education is heavily weighted on local money, the amount received from property taxes is crucial. Some of the poorest communities in a district often have the highest property tax rates, but because the value of property is much lower, it is still not enough to compete with the wealthiest districts whom have lower tax rates yet receive more. What has been determined is that “the greatest interdistrict disparities, however, are attributable to differences in the amount of assessable property available within any district. Those districts that have more property, or more valuable property, have a greater capability for supplementing state funds” (San Antonio Independent School District v. Rodriguez, 1973). This system quickly creates a disparity between the wealthy and poor communities and causes a wide gap in educational quality. The end result is that such a system creates a greater challenge for low-income communities to provide additional funds when state support is not enough (San Antonio Independent School District v. Rodriguez, 1973). Those students already trailing behind are just pushed further away from the wealthy districts achieving at the top.

Even with such arguments, the Supreme Court upheld its position and reversed the original ruling of the District Court, allowing Texas to continue its funding scheme. While many were upset these property taxes were used to fund their child’s education, the Court argued that “if local taxation for local expenditures were an unconstitutional method of providing for education then it might be an equally impermissible means of providing other necessary services

customarily financed largely from local property taxes, including local police and fire protection, public health and hospitals, and public utility facilities of various kinds” (San Antonio Independent School District v. Rodriguez, 1973). The argument states that if local property taxes are not fit to fund schools, are they appropriate for other areas of the community? Though there is some weight to this argument, the purpose of education is quite different in some respects from other public services. While a fire station or hospital aims to alleviate current problems, such as burning homes or sick patients, schools come in at the forefront and strive to create a well-informed citizen. A well-informed citizen will then know common fire hazards to avoid, state and city laws to obey, and preventive healthcare measures to take. Such education therefore lessens the taxpayer’s cost for other public services in the future, such as prisons or the emergency room, having a positive economic impact on society. With that knowledge, property taxes must be redistributed to provide each community with an equal amount of public services.

4. A Modern Example: East St. Louis

Traveling to East St. Louis around 1990 paints a dark and disturbing picture. The city is stricken with poverty and unable to function properly. In a true moment of despair, “the city, which is often unable to buy heating fuel or toilet paper for the city hall, recently announced that it might have to cashier all but 10 percent of the remaining work force of 230” (Kozol, 1991, p. 10). The town is full of harmful chemicals, increasing debt, and hopeless children. These children look to their parents and older siblings and see their future already laid before them. They understand the facts: they will likely drop out of high school, struggle to find a low-paying job, and live their lives trapped in a floodplain of disparity and defeat. Despite the wealth that surrounds this city, East St. Louis lives out the idea that “although dirt and water flow downhill, money and services do not” (Kozol, 1991, p. 12).

One school in East St. Louis, Martin Luther King, is in terrible condition-structurally and academically. What makes it worse is “the irony of naming segregated schools for Martin Luther King” (Kozol, 1991, p. 43). Students clearly see the segregation of their school, yet because this has been reality for so long, they have become immune to the problem. They quickly learn how undervalued their education is compared to others as they witness firsthand a school with no resources, no money, and little hope. Even the boy’s bathroom is a reminder of this inequity: “Four of the six toilets do not work. The toilets stalls, which are eaten away by red and brown corrosion, have no doors. The toilets have no seats. One has a rotted wooden stump. There are no paper towels and no soap” (Kozol, 1991, p. 44). This is considered the best school in East St. Louis. A school in complete shambles, a school falling apart and far from repair, a school that is a danger to student health and wellness is viewed as the best. When did the measure of a good school become so degraded and so low?

Surprisingly, this harsh reality of East St. Louis in the early 1990s is not much different from East St. Louis today. According to a CNN report, East St. Louis is still in grave danger of failure. Today, “violent crime in the city is more than 15 times higher than the rest of the nation, according to police statistics. The unemployment rate was 13.9% in May 2012, more than five percentage points higher than the national average. U.S. Census figures show 41% of the 27,000 residents live below the poverty line” (Sepulvad, 2012). This mentality does not stop at the school. Classrooms are filled with teachers who have little experience beyond showing movies and completing worksheets. School buildings are still in poor condition, and overall, the schools of East St. Louis lack true support (Sepulvad, 2012). Despite complaints for change, only 11% of students are meeting the state standards for math and reading (Sepulvad, 2012), and this does

not appear to be quickly increasing. The East St. Louis of today is continuing to provide students with a minimal education, one characterized by segregation of both wealth and race.

IV. Segregation in Today's Schools

A. By Race

Despite the efforts of *Brown v. Board of Education* sixty years ago, many schools are becoming increasingly separated by race once again. Today, schools “are as segregated as they were in the late 1960s before busing began. Currently, more than 70 percent of black and Hispanic students attend predominantly minority schools; more than 30 percent attend schools that are greater than 90 percent minority. The average white student attends a school in which more than 80 percent of the students are white” (Dunn & West, 2009, p. 73). This resurgence likely has its roots in the early 1990s when the Court returned to the question of desegregation and the progress of school systems. The Court concluded that all desegregation decrees could now be dismantled for all districts in compliance with the decrees. The Supreme Court then turned any further decisions for ending the supervision of desegregation over to the lower courts (Dunn & West, 2009, p. 84).

This decision sent the overall message that court-ordered desegregation had its time and should now be dismantled, yet the Court “took these steps fully aware that dismantling desegregation decrees and returning to neighborhood schools would increase school segregation in a number of districts” (Dunn & West, 2009, p. 85). As predicted, schools quickly began to re-segregate, allowing for the startling situation apparent today in schools. The courts ruled that de jure segregation had been properly handled and that de facto segregation was out of the Court’s reach. Now that school districts had the flexibility once again to zone and enroll as they pleased, other effects, such as residential mobility to certain neighborhoods, further segregated

communities, and therefore segregated schools. Private schools then exacerbated this situation as wealthy parents began to remove their students from diverse schools and into mainly white school settings. Because de facto segregation was not intentional in the same ways de jure segregation was, schools once again became separated by race due to neighborhoods, money, private schools, and entrance exams.

What may be even worse are the societal implications of segregating students by race. Due to this consistent pattern in schools, blacks now have a skewed view of whites that harms almost any black student willing to learn. For example, “black teenagers asked to define acting White include things like how one talks, walks, dresses, the kind of music the person listens to, the friends the person associates with, and whether the person is smart or tries to do well in school” (Norwood, 2007, p. 4). The separation of black from white students over an extensive period of time has created a large rift between the two in terms of educational attainment, wealth, sports, and family. White students attend white schools and display vastly different characteristics than black students at black schools. Even within partially integrated schools, blacks continue to separate their attitudes from those of white students, maintaining two distinct cultures. Furthermore, peer pressure of blacks to other black students is rampant, and no student seeks to become the outsider. Hence, “real Black kids skip class, do not do school assignments, and value street smarts over school smarts. Real Black kids do not read, do homework, go to school, attend class, perform well on tests, raise their hands in or otherwise participate in class, accept placement in honor classes or sign up for advanced placement courses” (Norwood, 2007, p. 10). Society is dealt a devastating blow when it separates students based on skin tone, thereby encouraging the stereotypes of a certain race.

Beyond the overall district population, in a city like New York with G&T programs, students see further segregation within the classrooms. Dividing students based on academic performance re-segregates students into classes: the smart elite, who are generally white, and the rest, who are primarily minority students. The truth today is that “the number of Southern black students attending majority white schools...is now at its lowest point since 1970” (Millhiser, 2005, p. 422-23). The effects of de facto segregation appear to be as problematic, if not worse, than those of de jure segregation.

B. By Funding

Arguments for or against additional funding to poor schools vary widely. Some believe money is needed to provide low-income schools with additional resources, while others feel such money is simply thrown into a bottomless pit, and there is some research to support such a claim. Yet, for high-poverty, low-income schools that often have less, that lack of money can cause great disadvantages. One problem is in the area of infrastructure. Low-income schools are more likely to have older infrastructure in need of large repairs and updated equipment. These old facilities can even become a health hazard when issues of mold and chemicals are present, thus creating a problem “that the crumbling infrastructure uses up a great deal more of per-pupil budget than would be the case in districts with updated buildings that cost less to operate” (Kozol, 1991, p. 46). What occurs is that schools already receiving lower per-pupil amounts based on their student population see even less of that in the classroom after paying for repairs and other building renovation projects.

Another drawback for these struggling schools is a clear lack of resources. Affluent schools with additional funding have more resources and more qualified teachers. Resources are critical to the classroom learning environment, and the problem lies in the fact that “the immense

resources which the nation does in fact possess go not to the child in the greatest need but to the child of the highest bidder-the child of parents who, more frequently than not, have also enjoyed the same abundance when they were schoolchildren” (Kozol, 1991, p. 97). This leaves students of low-income parents behind from the start and forced to ‘play catch up’ with a smaller amount of resources.

The root of this dilemma is in actuality equity. Oftentimes, the argument is to provide equal funding to all students across all schools, no matter their parents’ income level. While this is a first step, it refuses to solve the real problem. The issue is that students attending low-income schools are years behind their more affluent peers, so simply equalizing all funding is not enough for these schools. What they need is to receive more than their advantaged peers who come from families with higher paying abilities. The truth is that “equity, after all, does not mean simply equal funding. Equal funding for unequal needs is not equality” (Kozol, 1991, p. 66). A student enrolled at a Title I school has vastly different needs than one at the top performing school in the district, and giving each student the same amount of funding is unlikely to create true change; one is already academically ahead of the other, providing little opportunity for the Title I student to achieve the same level of educational attainment.

A common question then asked is which students or schools will show the best return on their funding. This philosophy looks at students and determines who is most worth the investment (Kozol, 1991, p. 141-142). Such a mindset is then often used to decide the distribution of local property tax revenue. If, for example, the county provides more funding to schools in areas with higher property tax revenue, schools will show a noticeable gap. If, however, a county collects all property tax dollars and then redistributes that revenue according to need, schools will not suffer as drastically.

Unfortunately, in the state of Illinois, funding gaps have appeared to widen in recent years, following that schools in higher property value areas receive more tax revenue. The problem lies in “the fact that districts can vary the tax assessment of property allowing wealthier districts in many instances to spend more per pupil than poorer districts, while imposing lower property tax rates” (Card & Payne, 2002, p. 56). For Illinois, lawmakers have chosen to rely heavily on property taxes, thus creating huge gaps in spending and achievement between their schools. This is clear in the difference in average per-pupil spending. For some districts in Illinois, average per-pupil spending reaches \$15,000 or higher, while other districts do not even have \$5,000 to spend on each student (Richter, 2004). In addition to residential property, Illinois allows for more disparities through the corporate tax system. Businesses are offered “a corporate tax break which allows them to pay far less than their fair share of state taxes” (Richter, 2004). With a lower income from corporate taxes and the numerous loopholes available, the revenue flowing in from local companies is small and insufficient to meet true educational needs. Low corporate tax rates and low property values together can create depressingly low per-pupil expenditures.

Further adding to this problem is the difference between buyers and renters. It is generally assumed that students attending low-income schools are more likely to have parents with less earnings, therefore often renting on a monthly basis. The problem that then arises is that renters pay less in property taxes than buyers. Buyers of a home own the house and land they live on, yet renters own no property. Though the landlord of an apartment complex adds a portion of the property tax of the apartment building onto the monthly rent, each individual renter will still pay a much lower amount in property taxes than a homeowner. A school with children of mainly home-owning parents, therefore, has paid more property tax revenue, while a

school of mainly renting families will still pay property taxes but with a much lower total, furthering the gap between communities.

Such evidence reveals that spending between and within districts varies considerably and often depends on the legislation of the state. The struggle lies in determining which funding mechanism actually works and provides all schools with the resources and teachers it needs. One option is to create what is known as “‘a low foundation.’ The low foundation is a level of subsistence that will raise a district to a point at which its schools are able to provide a ‘minimum’ or ‘basic’ education, but not an education on the level found in the rich districts” (Kozol, 1991, p. 252). Such a minimum does not require schools to be equal, it only requires they meet a minimum. The idea of a minimum is generally of greater appeal than other solutions due to the fact that “equity rulings have generated more opposition than adequacy rulings, because reform designed to narrow spending disparities tend to reduce state contributions to wealthier districts, whereas adequacy rulings usually elicit general spending increases” (Dunn & West, 2009, p. 102). Meeting an adequate measure of minimal spending will leave low-income schools behind, who will likely meet the state minimum and nothing more, while rich districts spend thousands above the required amount. In addition, simply equalizing funding by redistributing property tax revenue is not enough. Such a solution “would succeed in treating districts, but not children, equally” (Kozol, 1991, p. 252). To resolve inequity, even amidst equal funding, is a much greater challenge and requires a superior mechanism to a simple low foundation.

C. The Increasing Disparities Among Schools

Sixty years after the ruling in *Brown v. Board of Education*, it would seem reasonable for schools to be mostly integrated due to factors such as the wealth of court cases addressing

segregation and the push for desegregation in the school system. Despite such assumptions, schools are as segregated as ever, and funding is no different. Examining the last forty years since Rodriguez, several states have continued to push for funding equity through numerous cases, and some of those cases in school finance litigation have occasionally prevailed. Even with small victories, the judicial pullback in school finance cases is growing as judges question their effective decision-making abilities over issues of school finance (Dunn & West, 2009, p. 110).

With mixed legislation, a key understanding is reached: while over the years individual districts, at least in the state of Tennessee, have worked to close per-pupil spending gaps by offering equal expenditures to all its students due to state regulation, between district spending offers a quite large disparity. For example, Knox County has a per-pupil expenditure of \$9,077.22, Davidson County of \$11,421.35, Oak Ridge of \$12,075.26, and Union County of only \$7,314.44¹. Even despite a much greater state percentage in funding for Union County, it still remains thousands behind Oak Ridge. What is even worse is the fact that Union County's percent of economically disadvantaged students is the highest of the four counties at 73.1%, followed by Davidson County at 72.4% (TN Dept. of Education, 2013). Yet why does Union County, a much higher-needs district, receive nearly \$5,000 less per pupil than a district such as Oak Ridge? While all students within one district might receive the same per-pupil amount, compared to another district, the differences can be quite drastic. How can two districts thousands of dollars apart provide students with an equal quality education? Though it is possible that one district may have a somewhat lower cost of living than another, that difference is not enough to account for the thousands of dollars that separate each student between districts.

¹ These amounts are listed for the current school year, 2013-14. Table 1 provides a list of district per-pupil expenditures based on the 2012-13 school budget.

Turning back to the individual school district, the question then becomes why some schools have a greater pool of resources and funds than other schools if they all receive the same per-pupil amount. The major difference lies in school foundations. School foundations are created by parents and other community members to provide additional funding and resources to their child's school when district money is insufficient. These foundations rely on donations and fundraisers to operate. In Knox County for example, there are fifteen high schools, yet only four have school education foundations, listed in Table 2. These foundations are at the schools notoriously known for their wealth, updated buildings, well-equipped sports teams, advanced courses, and great parental support. These schools are generally located in more affluent areas of the city and raise countless dollars each year for their students. Comparing these four high schools to the remainder of those in the district, Table 3 reveals that schools without education foundations show some noticeable differences to those that do.

Many of the schools without education foundations show much higher percentages of economically disadvantaged students and lower graduation rates, with the exception of one high school. In addition, every high school without a foundation has a lower ACT composite score. Though there may be no direct link between funding and test scores, funding does allow for extra and more advanced instruction, supplemental materials, and even test preparation. This leads to the simple fact that more affluent schools have more affluent parents; therefore, those schools soar past other schools both financially and academically due to foundations created by involved parents, businesspeople, and community members. In low-income schools, the possibility, let alone reality, of creating a school foundation is practically nonexistent. Private money has become king of school funding.

V. Conclusion: The Fate of Public Education

Through a vast array of education court cases, it becomes clear that the disparities defendants have fought against for decades are still present today. Variations in funding mechanisms and the makeup of neighborhoods cause drastic differences in which schools succeed and which ones fail, yet is this honestly fair to the student? Countless years have been spent aiming for more in the education world, and while society waits for the outcome, students linger on in underfunded, segregated schools.

A. Are Public Schools Failing?

In a 1988 court case in New Jersey arguing the funding disparities among schools, Judge Stephen L. Lefelt speaks quite eloquently in his closing statement when he asks,

‘How do you evaluate [the benefit of] retaining a few students who would have dropped out? How do you weight the one student who becomes a successful artist and creates works that provide enjoyment for thousands of people? How do you cost-out the student who learns to enjoy reading and thereby adds excitement to what otherwise would be a rather ordinary existence? How important to society are flexible, imaginative and inventive citizens? I cannot even guess. Suffice it to say that I opt for providing equal opportunity to all our children, no matter where they may live’ (Kozol, 1991, p. 205).

The value of a child’s education should never be weighed or measured, yet that is exactly what state and local school budgets deem necessary to calculate their yearly allocations. As Jonathan Kozol (1991) poignantly points out, “One wonders what might happen to the spirits of these children if they had the chance to breathe this air and stretch their arms and see so far. Might they feel the power or the longing to become inheritors of some of this remarkable vast nation?” (p. 281-282). Society hinders the potential and power of so many of its young minds.

The reality is that education in America is currently failing. While middle- and upper-class American students may score well on tests and attend high-performing, segregated schools, that does not overshadow the truth that minorities and migrant students struggle drastically in the education system. Zoned to attend high-poverty schools with novice teachers and minimal resources, these students are segregated based on factors ranging from skin tone to income level to residential location and private schooling options. The challenge is to overcome such obstacles and reach equity outside of these realms. Unfortunately, as these economic and societal factors play out, many students are ‘hobbled’ before school begins (Morris, 1980, p. 946), which later leaves these students with inferior educations that may never be undone (San Antonio Independent School District v. Rodriguez, 1973). Time is limited because the longer society waits, the farther behind students desperately needing a quality education fall, and they often fall hard.

B. Is There a Solution?

The notion that segregation is still largely ingrained in schools is an understatement. To combat such disparity, the aim moving forward should not only be desegregation, but integration. Integration is the key to equalizing the demographics of student populations and the corresponding educational attainment of those students. While desegregation ends all segregation laws, integration actually requires schools to intentionally place black, as well as other minority, and white students in the same schools. This process creates diversity where desegregation is often lacking. However, the implementation of integration is near impossible. Busing can create new problems, and increased distance between home and school often places a strain on parents. Another factor is that higher-income households deliberately cluster around certain schools or communities, segregating themselves from low-income, minority families who

have less resources to make these moves. In addition, open enrollment programs are tedious and often push minority students out because parents lack the time and connections more affluent families have. Private schools and entrance exams even further desegregate students by both race and wealth. These separations within communities have contributed greatly to the now prevalent de facto segregation in schools.

The answer to then solving this issue becomes quite complex. Due to the unlikelihood of complete integration because of the logistics and even community backlash, schools must search for other opportunities to desegregate. Along with the plea for integration is a push against entrance exams for acceptance to specialized high schools, which low income students are generally unprepared to take. I suggest taking away these exams and accepting students based on grades and need. However, if these exams remain, I would encourage more programs, like Project 2011, to effectively prepare students for the material on such tests. The parent aspect should also be lessened. Parents should not be required to spend countless hours on forms and applications. The process of applying to schools should become one universal application sent to all schools a parent is interested in for their child, thereby creating one application for all programs. While some districts have taken this simplified approach, many more, such as New York City, have yet to change. Entrance to such coveted schools must become more equitable and simplified for parents and students alike.

One of the largest problems again lies with property taxes and funding distributions. The true concern is that educational opportunity is often determined by the revenue of property taxes generated from a community. This is a factor in which local parents and students have no control (*San Antonio Independent School District v. Rodriguez*, 1973). Property taxes leave the

student completely handicapped. To try and alleviate such issues, several solutions have been offered to fight against this disparity.

The first solution is known as ‘district power equalizing’. In this scenario, all districts would receive a set amount of funding from the state, regardless of the tax base of that district. For poorer districts with lower property values, funds would be taken away from wealthy districts who have higher property values and therefore generate greater revenue and given to those poorer areas. Such a process would equalize funding for all students across districts (San Antonio Independent School District v. Rodriguez, 1973). This is appealing in that a school community’s wealth, or lack thereof, would not directly affect the education its students receive. Even with this possible solution, the problem still remains that equal funding does not necessarily lead to equitable quality educations. Students at high poverty schools who are further behind need additional funds and resources; equal will never be sufficient for such students. So the question remains, if funding is equalized across schools within a district, how does government provide those struggling schools with even more?

One option to address this concern is to limit the funds higher property-value districts can raise, essentially placing a spending cap on these districts. Furthermore, some of these same districts have adopted what are known as ‘Robin Hood’ plans where these property-rich districts are required to contribute funds to poorer districts (Dunn & West, 2009, p. 104-05). This allows low-income schools to reach a more even playing field with their affluent counterparts. Personally, I believe this is the most efficient solution. Districts should be given a cap so that schools in different counties do not end up thousands of dollars apart, as is currently evident in Tennessee. I would advise going further by using any additional revenue a district raises to distribute to high needs areas, as the ‘Robin Hood’ plan suggests. This would clearly provide

certain schools with more funding, but in this case, they would be the schools in true need, the ones falling behind.

An additional suggestion mentioned in *San Antonio Independent School District v. Rodriguez* “would be to remove commercial, industrial, and mineral property from local tax rolls, to tax this property on a statewide basis, and to return the resulting revenues to the local districts in a fashion that would compensate for remaining variations in the local tax bases” (1973). Due to the fact that businesses often reside in certain areas of town, and further that some corporations receive tax breaks to locate in high poverty areas, taxing all companies at a statewide basis might help alleviate some differentiation in corporate tax revenue. This would take variations between an affluent community, with well-established, profitable businesses who pay full taxes, and a struggling community, with fewer businesses that generally receive tax breaks, and eliminate such differences in tax revenue. All revenue would come into the state and then be redistributed to districts and schools that have the highest need, once again employing the ‘Robin Hood’ method.

I would advise using this ‘Robin Hood’ method for corporate taxes and implementing the plan in this way: to determine which schools are eligible to receive funds from the corporate tax revenue, the percentage of students on free and reduced lunch would be measured, similar to the distribution of Title I funding. Schools would be required to meet the minimum percentage of free and reduced lunch rates, and once met, these schools would receive a portion of the state tax revenue from all businesses. The portion they receive would further vary dependent on the percentage of free and reduced lunch over the minimum. In my opinion, this is the most equitable way to distribute funds properly and provide additional money, and therefore additional resources, to schools truly in need.

State income tax and sales tax revenue are also potential contributors. Though there is no state income tax in the state of Tennessee, this tax implies that wealthy people will pay more due to their higher level of income. The same is true for sales tax as the wealthy on average spend more. A percentage of these revenue sources could then generate some additional funding for high-needs schools mainly populated by low-income families.

Though giving more to districts in need seems fair, many wonder how much money is too much. When does money stop bringing about real results and simply become lost in the abyss of funding? Unfortunately, this question is still unknown today, yet despite this, the goal must remain to give somewhat more to schools in need because “if the educational adequacy mandated by the Constitution is ever to become a reality, it will only be achieved by providing disadvantaged youth with additional resources, superior instruction, and above all additional instruction time” (Millhiser, 2005, p. 436). Even if the full effects of funding remain unknown, how states currently use and distribute the funding they receive matters. Therefore, a focus should be placed on equitable distribution methods that prioritize high-needs districts. A further factor is again school foundations. While public funding at the local and state level can be regulated, there are no restrictions on private donations. My fear is that although there are mechanisms that may equalize public money, private money will continue to separate the wealthy from other students and their schools.

From a study on two major judicial decisions in the tangled education system, it is clear there are no simple solutions to solving a problem of this magnitude. Whether it’s political, economic, academic, or social, these factors all lead to modern-day de facto school segregation, both by race and wealth. Though many answers are left unsolved, what I do know is that despite good intentions, *Brown v. Board of Education* and *San Antonio Independent School District v.*

Rodriguez have brought little actual, substantial change to today's modern education world.

Even with the success of closing gaps in some select schools, the majority of districts throughout the U.S. are still struggling to gain equality in educational value amidst disparities, especially when considering a factor such as private money. Politics is a messy business, and education lays at its feet, and as this happens, reality sets in because "each minute that children are denied their right to an adequate education can only drive them deeper into a hole from which they may never recover. A responsible court cannot gamble with these lives" (Millhiser, 2005, p. 425), yet I fear that is exactly what the Supreme Court has so often done over the past sixty years.

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Table 1: Per Pupil Spending in Various Tennessee Districts, 2012: Examining Why the Range Is So Wide Among Districts.

District	Per Pupil Expenditure	Local %	Federal %	State %
Anderson County	\$9,234	37.1	15.6	47.3
Clinton	\$9,495	39.9	11.2	48.9
Oak Ridge	\$12,380	52.9	10.1	37
Blount County	\$8,701	37.7	12.8	49.5
Alcoa	\$10,444	53.2	6.9	39.9
Maryville	\$9,477	54.1	6.3	39.6
Claiborne County	\$8,924	24.4	17.2	58.4
Tullahoma	\$10,237	47.3	11.8	40.9
Davidson County	\$11,012	56.4	14.8	28.9
Fentress County	\$8,576	19.7	19.7	60.6
Humboldt	\$10,410	22.2	19.8	58
Bradford	\$9,732	23.1	18.7	58.1
Gibson Co Sp Dist	\$6,836	26.7	11.7	61.6
Greene County	\$7,811	24.3	16.2	59.5
Greenville	\$10,356	43.2	13.8	43.1
Grundy County	\$9,394	13.5	23.4	63
Hancock County	\$9,822	10.2	21.7	68.1
Jefferson County	\$8,052	27.1	13.8	59.1
Johnson County	\$10,118	22.6	20	57.4
Knox County	\$8,479	52.6	13.1	34.3
Lake County	\$10,050	17.3	18.4	64.3

Table 1: Per Pupil Spending, continued

District	Per Pupil Expenditure	Local %	Federal %	State %
Lewis County	\$7,724	17.4	16	66.6
Loudon County	\$8,222	44.2	11.3	44.5
Lenoir City	\$9,062	46.9	9.3	43.7
McMinn County	\$7,972	27.8	16	56.2
Macon County	\$8,029	17	13.5	69.6
Madison County	\$9,813	44.1	17.2	38.7
Dayton	\$7,883	19.9	16.6	63.6
Roane County	\$8,883	48.9	11.7	39.5
Murfreesboro	\$9,191	40.9	11.6	47.4
Sevier County	\$9,103	58.8	10.9	30.3
Shelby County	\$9,318	42.3	10	47.7
Memphis	\$11,250	39	20.9	40.2
Stewart County	\$9,628	18.9	17.6	63.5
Sullivan County	\$9,181	42.8	13.9	43.3
Bristol	\$9,670	50.1	10.3	39.7
Kingsport	\$10,194	53.1	11.2	35.8
Union County	\$7,276	12.7	13.4	74
White County	\$7,736	18.1	16.9	65
Williamson County	\$8,436	55.5	4.7	39.8
Franklin SSD	\$12,466	67	6.8	26.2
Wilson County	\$7,803	42.1	8.8	49.1

**Data retrieved from TN Dept. of Education, 2012 District-Level Profile Data File*

Table 2: Which High Schools Have Education Foundations in Knox County: Are We Allowing the Wealthy to Gain More Wealth?

	Bearden High School	Farragut High School	Hardin Valley Academy	West High School
Number of Students	1,897	1,721	1,846	1,233
Economically Disadvantaged Student %	23.2%	13.2%	24.2%	44.2%
Per-Pupil Expenditure	\$9,077.22	\$9,077.22	\$9,077.22	\$9,077.22
Avg ACT Composite Score	22.5	23.6	22.1	20.3
Graduation Rate	92.4%	95.8%	90.1%	88.9%
% White	82.3	82.2	83.4	65.4
% African American	9.1	6.6	8.1	27.5
% Hispanic or Asian	4.1	6.3	4.8	5.2
Foundation Specifics	Has raised over \$5,000 since 1997.	Funds are said to be used for technology improvements and other uses.	No specific information given.	Raised over \$34,000 in Fall 2013.

**Data retrieved from TN Dept. of Education, 2013 Report Card*

Table 3: Considering Schools without Education Foundations, What are Their Profiles Compared to Those Schools with Foundations?

	Austin East High School	Carter High School	Central High School	Fulton High School	Gibbs High School	Halls High School	Karns High School	Powell High School	South - Doyle High
Number of Students	571	908	1,104	923	1,057	1,268	1,293	1,394	1,130
Economic ally Disadvant aged Student %	89.3%	50.0%	55.6%	78.5%	41.0%	32.9%	39.0%	42.3%	58.1%
Avg ACT Composit e Score	15.9	20.0	19.4	16.9	18.3	19.7	19.5	18.8	18.3
Graduatio n Rate	85.6%	88.6%	87.1%	79.6%	87.2%	94.5%	86.9%	87.9%	81.3%
% White	10.3	91.4	72.8	50.2	93.3	95.2	83.1	84.9	84.2
% African American	87.6	6.7	19.9	44.7	4.8	1.8	11.2	9.0	12.5
% Hispanic or Asian	0	1.9	5.5	4.2	1.9	3.0	3.9	0.8	3.3

**Data retrieved from TN Dept. of Education, 2013 Report Card*